

## PDC Interpretation

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APPROVAL DATE: February 24, 2004

NUMBER: 04-01

STATUS: Effective  
February 24, 2004

SUPERSEDES: N/A

APPROVED BY: The Commission

SEE ALSO: RCW 42.17.640(1), WAC 390-05-400, WAC 390-17-300, Commission Meeting Minutes of September 28, 1993 and September 1, 1993 Memorandum from Roselyn Marcus, Assistant Attorney General

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### **Contribution Limits: Impact When a State Office Candidate Does Not Have a Primary Election**

**Intent.** PDC Interpretation 04-01: (a) documents the Commission's interpretation of RCW 42.17.640(1) in the event that there is no primary election for a candidate for state office, and (b) provides guidance regarding actions an affected candidate is required to take concerning contributions received in anticipation of both a primary and general election.

**History:** On September 28, 1993, the Commission adopted an interpretation that "Initiative 134 permits contributions up to the stated limit for elections in which the candidate actually appears on the ballot." The meeting minutes do not reference the circumstance where a state office candidate appears as a write-in candidate. See attached excerpt of minutes from September 1993 meeting and memorandum dated September 1, 1993, from Roselyn Marcus, Assistant Attorney General.

#### **Applicable Statutory References:**

RCW 42.17.640(1) says, in part:

*No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed \* five hundred dollars or to a candidate for state office other than a state legislative office that in the aggregate exceed \*one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. (Emphasis added)*

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\*These dollar thresholds have been adjusted for inflation by the Commission prior to even-numbered year elections in accordance with RCW 42.17.690. For the 2004 elections, the thresholds are \$675 and \$1,350 respectively.

RCW 42.17.020(38) says:

*"State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.*

RCW 42.17.020(39) says:

*"State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.*

RCW 42.17.020(16) says, in part:

*"Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: . . .*

RCW 42.17.640(13) says:

*No person may accept contributions that exceed the contribution limitations provided in this section.*

### **Interpretation:**

RCW 42.17.640(1) applies to all contributors except bona fide political parties and caucus political committees. Pursuant to WAC 390-05-400 (Changes in Dollar Amounts), with respect to the 2004 elections, subsection .640(1) permits an individual, business, union, PAC or association to donate in the aggregate up to \$675 per election to a legislative candidate and \$1,350 per election to a statewide executive candidate.

On its face, subsection .640(1) clearly anticipates and requires that there be an election in which the state office candidate is on the ballot or is appearing as a write-in.

As such, in the case where there is no primary election for the office and position being sought by a legislative candidate, or office being sought by a candidate for state office other than the legislature, but there is a general election, candidates are only entitled to receive -- and donors subject to section .640(1) are only entitled to give -- up to the maximum allowed for a single election.

For those state office candidates who had reasonably anticipated that there would be a primary election and who, in accordance with WAC 390-17-300, legally had accepted in excess of the maximum allowed for a single election from persons having a per election limit, once it is determined by the appropriate elections official that there is no primary election, those candidates must immediately refund to each contributor the amount of the excess contribution and properly disclose the refund on the appropriate report.

Candidates who do not have a primary election do not file the 21 or 7 day pre-primary C-4 reports. Instead, they continue to file C-4 reports on the 10th of each month in accordance with RCW 42.17.080 until the months in which the 21 and 7 day pre-general C-4 reports are due.